

DAVID BURCHARD
CHAPTER 13 TRUSTEE
P.O. BOX 8059
FOSTER CITY, CA 94404
(650) 345-7801 FAX (650) 345-1514
(707) 544-5500 FAX (707) 544-0475

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:

VICTOR HERNANDEZ-SAAVEDRA and
CRISTINA HERNANDEZ
3531 WHITE CLIFF CIRCLE
NAPA, CA 94558
###-##-6708 ###-##-2761
Debtor(s)

Chapter 13

Case No: 12-1-0309AJ13

Date: September 10, 2014

Time: 01:30 PM

Ctrm: 99 South E Street
Santa Rosa, CA 95404-6517

MOTION OF CHAPTER 13 TRUSTEE, DAVID BURCHARD,
TO DISMISS CASE UNDER 11 U.S.C. SECTION 1307(c)

TO: THE ABOVE-NAMED DEBTOR(S) AND TO DEBTOR'S(') ATTORNEY OF RECORD HEREIN:

The Chapter 13 Trustee, DAVID BURCHARD, moves the court for an order, pursuant to 11 U.S.C. Section 1307(c) dismissing this case for cause in that the Debtor(s) failed to make plan payments as described in Debtor(s)' confirmed Chapter 13 Plan.

1. This court has jurisdiction over this matter pursuant to 11 U.S.C. Section 1307(c), Federal Rules of Bankruptcy Procedure 9013 and 9014, and Bankruptcy Local Rules 9013-1 and 9014-1. This is a core proceeding under 28 U.S.C. Section 157(b)(2)(A).
2. This motion is made for cause pursuant to 11 U.S.C. Section 1307(c) on grounds that the Debtor(s) failed to make plan payments as described in Debtor(s)' confirmed Chapter 13 Plan. This motion is based upon all documents, records on file, together with this Notice of Motion, Motion, Declaration and any such additional documents, records and evidence which may be presented.
3. An Order Confirming Plan was entered 06/18/2012.
4. Pursuant to the Debtor(s)' confirmed plan, the Debtor(s) should have paid the Trustee \$13,920.00.
5. As of the date hereof, the Debtor(s) have paid \$11,191.15.
6. The Debtor(s) monthly payment is \$720.00.
7. The approximate balance remaining to be paid on the confirmed plan is \$24,328.85.
8. The cause to dismiss this case exists because the Debtor(s) has failed to make payments as described in the debtor(s)' confirmed Chapter 13 Plan and the Trustee therefore requests the Court enter an order dismissing this case.

If you wish to oppose dismissal of this Chapter 13 case, you or your attorney may appear at the hearing on this motion and present argument in opposition to this motion.

Dated: August 7, 2014

David Burchard
David Burchard, Chapter 13 Trustee

DAVID BURCHARD
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Chapter 13
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DECLARATION IN SUPPORT OF CHAPTER 13 TRUSTEE,
DAVID BURCHARD'S, MOTION TO DISMISS CASE UNDER
11 U.S.C. SECTION 1307(c) and CERTIFICATE OF MAILING

I am the custodian and/or keeper of the business records referenced herein and, as such, I am qualified to certify the authenticity thereof. Additionally, I have personal knowledge of the matters stated in the Declaration except as to those stated on information and belief and as to those matters, I believe them to be true and correct. If called upon as a witness, I could, and would, competently testify to the fact contained herein.

After reviewing the books, records and files of the above-referenced Debtor(s), I make the following Declarations:

1. An Order Confirming Plan was entered 06/18/2012.
2. Pursuant to the Debtor(s)' confirmed plan, the Debtor(s) should have paid the Trustee \$13,920.00.
3. As of the date hereof, the Debtor(s) have paid \$11,191.15.
6. The Debtor(s) monthly payment is \$720.00.
7. The approximate balance remaining to be paid on the confirmed plan is \$24,328.85.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on August 7, 2014, in Foster City, California.

Dated: August 7, 2014

David Burchard

David Burchard, Chapter 13 Trustee

CERTIFICATE OF MAILING

I am over the age of 18 years and not a party to this action. I am employed by the Trustee whose business address is 393 Vintage Park Drive, Suite #150, Foster City, CA. On the date set forth below, I served a true and correct copy of the Motion of Chapter 13 Trustee, David Burchard, to Dismiss Case Under 11 U.S.C. Section 1307(c), the Declaration in Support of Chapter 13 Trustee, David Burchard's Motion to Dismiss Case Under 11 U.S.C. Section 1307(c) and this **Certificate of Mailing**, on the persons listed below by following our ordinary business practice for service, which is either deposited in the ordinary course of business with the U.S. Postal Service by first class mail or served by electronic transmission from the Court, if applicable. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

VICTOR HERNANDEZ-SAAVEDRA
and CRISTINA HERNANDEZ
3531 WHITE CLIFF CIRCLE
NAPA, CA 94558

LARS T. FULLER
THE FULLER LAW FIRM
60 N KEEBLE AVE
SAN JOSE, CA 95126-0000

Dated: August 7, 2014

LIZ WHIGHAM

LIZ WHIGHAM
Case Administrator